

Nelson & Dahle, P.C.

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DISTRICT COURT

George v. Slabach and Slabach & Slabach, Yellowstone DV 98-689, 8/24/2000

VERDICT: Defense, car/truck, admitted liability, neck/shoulder/arthritis aggravation.

A 9-3 Billings jury found that Lloyd Slabach's negligence in a car/truck collision in 8/95 in Yellowstone County was not a cause of injury to Marlene George.

George was traveling north on Hwy 312 in her 1979 Oldsmobile. She slowed in response to the vehicle in front of her which had slowed to turn left. Slabach was also traveling north, behind George, in his 1975 GMC grain truck. Slabach did not initially see that George was slowing; when he did he realized that he did not have time to stop. He swerved to George's right. When he saw that he was heading toward a culvert and ditch he swerved back to the left and sideswiped George's passenger side.

George testified that she has no memory of what occurred as a result of the collision; she could not even remember hearing a sound as the truck sideswiped her. Slabach admitted that his negligence caused the collision but disputed George's injury claim. George wanted to ask the jury to award property damages and have the Court offset that amount. Slabach objected because they had been paid and released before suit was filed.

Judge Baugh let George talk about property damages and let Slabach advise the jury that he had paid George \$1,700 for the property damage soon after the collision. He did not allow property damage on the verdict form.

George, 60, claimed neck & shoulder injuries. She had medical reports of a prior severe upper left arm injury some 30 years previously. In 1996 she underwent low back surgery which she did not claim was related to this collision.

Slabach contended that the medical records showed an advanced underlying arthritic condition in her lumbar & cervical spine. She claimed that her neck was asymptomatic prior to the collision. She claimed related medicals of \$10,700.

Plaintiff's Experts: FP James Girolami, Billings (deposed); Neurologist Arturo Echaverri, Billings (deposed); Orthopedic Surgeon Gregory McDowell, Billings (deposed).

Defendant's Experts: Biophysicist John Jurist, Billings ; Orthopedic Surgeon Robert Snider, Billings .

Original demand, unclear; original offer, \$3,000. Final demand, unclear; final offer, none. Jury request, \$10,700 medicals, \$13,000 for future cervical foramenotomy, reasonable amount for general damages (\$18,000-\$28,000 discussed); jury suggestion, \$1,250 if anything.

Jury deliberated 1½ hours including lunch 3rd day.

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Donald Sommerfeld (Towe, Ball, Enright, Mackey & Sommerfeld), Billings , for George; Jared Dahle & Randall Nelson (Nelson Law Firm), Billings , for Slabach (State Farm Mutual Auto Ins.).